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*Attorneys for Defendant/Third Party Plaintiff
Hoover Treated Wood Products, Inc.*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
ARBEN GROUP, LLC,	:	Civil Action No: 07 CV 11472 (CLB)
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
HOOVER TREATED WOOD PRODUCTS, INC.	:	HOOVER TREATED WOOD
	:	PRODUCTS, INC.’S THIRD PARTY
	:	COMPLAINT AGAINST
Defendant.	:	<u>INTERNATIONAL PAPER COMPANY</u>
	:	
-----	X	
HOOVER TREATED WOOD PRODUCTS, INC.,	:	
	:	(Filed via ECF)
Defendant/	:	
Third Party Plaintiff,	:	
	:	
v.	:	
	:	
INTERNATIONAL PAPER COMPANY,	:	
	:	
Third Party Defendant.	:	
-----	:	

Defendant/Third Party Plaintiff Hoover Treated Wood Products, Inc. (“Hoover”), by and through its counsel, Kirkpatrick & Lockhart Preston Gates Ellis LLP, hereby files this Third Party Complaint against International Paper Company (“International Paper”) and alleges:

PARTIES

1. Hoover is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 154 Wire Road, NW, Thomson, Georgia 30824.

2. Upon information and belief, International Paper is a corporation organized and existing under the laws of the State of New York with its principal place of business at 6400 Poplar Avenue, Memphis, Tennessee 38197.

3. Hoover produces pressure treated wood products, including a product known as Plywall® Panels.

4. International Paper manufactures plywood used in the production of Plywall® Panels.

5. This Court has supplemental jurisdiction over this Third Party Complaint pursuant to 28 U.S.C. § 1367(a).

6. Venue is proper for this Third Party Complaint in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1391(a).

ALLEGATIONS COMMON TO ALL COUNTS

7. On or about December 19, 2007, Arben Group, LLC (“Arben”) filed a Complaint against Hoover in the Supreme Court, State of New York, County of Westchester (the “Action”). Hoover removed the action to the United States District Court for the Southern District of New York.

8. The Action arises out of a purchase agreement between Arben and Hoover, pursuant to which Hoover was to supply Plywall® Panels to Arben for use by Arben in the construction of a project known as the Sprain Brook Parkway Noise Barrier System (“Project”).

9. Arben alleges that on or about January 31, 2006, Arben, as prime contractor, entered into a contract with the New York State Department of Transportation (“NYSDOT”), as owner, for the construction of the Project.

10. Arben further alleges that, in accordance with the Project specifications, Arben was to furnish and erect a Wood Noise Barrier System consisting of Plywall® Panels to be manufactured and supplied by Hoover.

11. Arben alleges that, within months of their installation at the Project, the Plywall® Panels peeled, separated, and deteriorated.

12. Based on the alleged deterioration of the Plywall® Panels, Arben claims that Hoover breached its contract with Arben and breached certain express and implied warranties by providing and delivering defective Plywall® Panels.

13. All of the plywood used in the production of the subject Plywall® Panels was supplied to Hoover by International Paper.

14. Any alleged defects in the Plywall® Panels are a direct result of International Paper’s failure to properly manufacture said plywood.

15. Hoover notified International Paper of Arben’s claims and of International Paper’s obligation to repair and/or replace said plywood.

COUNT I **CONTRIBUTION**

16. Hoover repeats and realleges each and every allegation contained in the Third Party Complaint and incorporates the same as if fully set forth herein.

17. Though Hoover denies any liability whatsoever in this matter, it nonetheless asserts that to the extent any injuries were actually sustained by Arben, and if Hoover is found liable to Arben with respect to said injuries and damages, Hoover demands contribution from

International Paper pursuant to applicable statutory or common law for the proportionate share of any and all sums that may be adjudged against Hoover.

WHEREFORE, Hoover demands judgment against International Paper awarding Hoover damages, including but not limited to, costs, interest, attorneys' fees, and such other relief as this Court deems equitable and just.

COUNT II
INDEMNIFICATION

18. Hoover repeats and realleges each and every allegation contained in the Third Party Complaint and incorporates the same as if fully set forth herein.

19. Though Hoover denies any liability whatsoever in this matter, it nonetheless asserts that to the extent any injuries were actually sustained by Arben, such injuries were the proximate result of the negligence and/or breach of International Paper, which negligence and/or breach was primary and active, and if Hoover is found liable to Arben with respect to said injuries and damages, such liability resulted solely from secondary, imputed, vicarious or passive negligence and/or breach of contract, and International Paper is liable to Hoover by way of indemnification, for any and all sums which Hoover may be required to pay in this action.

WHEREFORE, Hoover demands judgment against International Paper awarding Hoover damages, including but not limited to, costs, interest, attorney's fees, and such other relief as this Court deems equitable and just.

DEMAND FOR TRIAL BY JURY

Third party plaintiff demands a trial by jury with respect to all of the issues herein.

Dated: April 21, 2008

Respectfully submitted,

KIRKPATRICK & LOCKHART
PRESTON GATES ELLIS LLP

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